

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:18-cv-00381-EGS**

PHILLIPS v. DEPARTMENT OF HOMELAND SECURITY et al  
Assigned to: Judge Emmet G. Sullivan  
Cause: 05:552 Freedom of Information Act

Date Filed: 02/20/2018  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**JOSHUA PHILLIPS**

represented by **Matthew Topic**  
LOEVY & LOEVY  
311 N. Aberdeen Street  
Third Floor  
Chicago, IL 60607  
(312) 243-5900  
Fax: (312) 243-5902  
Email: [matt@loevy.com](mailto:matt@loevy.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Joshua Hart Burday**  
LOEVY & LOEVY  
311 N. Aberdeen Street  
Third Floor  
Chicago, IL 60607  
(312) 243-5900  
Fax: (312) 243-5902  
Email: [joshb@loevy.com](mailto:joshb@loevy.com)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**DEPARTMENT OF HOMELAND  
SECURITY**

represented by **Derek S. Hammond**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2511  
Fax: (202) 252-2599  
Email: [derek.hammond@usdoj.gov](mailto:derek.hammond@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Benton Gregory Peterson**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2534  
Fax: (202) 252-2599  
Email: [benton.peterson@usdoj.gov](mailto:benton.peterson@usdoj.gov)  
**TERMINATED: 03/15/2019**

**Defendant**

**DEPARTMENT OF JUSTICE**

represented by **Derek S. Hammond**  
(See above for address)  
**LEAD ATTORNEY**

*ATTORNEY TO BE NOTICED***Benton Gregory Peterson**

(See above for address)

*TERMINATED: 03/15/2019***Defendant****FEDERAL BUREAU OF  
INVESTIGATION**represented by **Derek S. Hammond**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Benton Gregory Peterson**

(See above for address)

*TERMINATED: 03/15/2019*

Date Filed	#	Docket Text
02/20/2018	<u>1</u>	COMPLAINT against all defendants ( Filing fee \$ 400 receipt number 4616089781) filed by Joshua Phillips. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Exhibit, # <u>15</u> Exhibit, # <u>16</u> Summons, # <u>17</u> Summons, # <u>18</u> Summons, # <u>19</u> Summons)(Burday, Joshua) . Modified on 3/1/2018 (zsth). (Attachment 1 replaced on 3/1/2018) (zsth). (Entered: 02/20/2018)
02/20/2018		Case Assigned to Judge Emmet G. Sullivan. (zsth) (Entered: 03/01/2018)
02/28/2018	<u>2</u>	NOTICE of Appearance by Matthew Topic on behalf of JOSHUA PHILLIPS (Burday, Joshua) Modified attorney on 3/1/2018 (znmw). (Entered: 02/28/2018)
03/01/2018	<u>3</u>	STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 03/01/18. (Attachment: # <u>1</u> Exhibit 1) (mac) (Entered: 03/01/2018)
03/16/2018	<u>4</u>	SUMMONS (3) Issued Electronically as to DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION. (Attachments: # <u>1</u> Notice and Consent)(zsth) (Entered: 03/16/2018)
03/16/2018		SUMMONS Not Issued as to UNITED STATES ATTORNEY. (zsth) (Entered: 03/16/2018)
03/19/2018	<u>5</u>	REQUEST FOR SUMMONS TO ISSUE re <u>1</u> Cover Sheet,, filed by JOSHUA PHILLIPS. Related document: <u>1</u> Cover Sheet,, filed by JOSHUA PHILLIPS.(Burday, Joshua) (Entered: 03/19/2018)
03/20/2018	<u>6</u>	SUMMONS (1) Issued Electronically as to U.S. Attorney.(znmw) (Entered: 03/20/2018)
06/11/2018		MINUTE ORDER. Plaintiff is hereby ordered to show cause why this case should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure by no later than June 26, 2018. See Fed. R. Civ. P. 4(m) ("If a defendant is not served within 90 days after the complaint is filed, the court... must dismiss the action without prejudice against that defendant..."). Signed by Judge Emmet G. Sullivan on June 11, 2018. (lcegs2) (Entered: 06/11/2018)
06/12/2018		Set/Reset Deadlines: Plaintiff Show Cause due by 6/26/2018. (mac) (Entered: 06/12/2018)
06/22/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF HOMELAND SECURITY served on 6/18/2018 (Topic, Matthew) (Entered: 06/22/2018)

06/22/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL BUREAU OF INVESTIGATION served on 6/18/2018 (Topic, Matthew) (Entered: 06/22/2018)
06/22/2018	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/18/2018. Answer due for ALL FEDERAL DEFENDANTS by 7/18/2018. (Topic, Matthew) (Entered: 06/22/2018)
06/22/2018	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF JUSTICE served on 6/18/2018 (Topic, Matthew) (Entered: 06/22/2018)
06/22/2018	<u>11</u>	STATUS REPORT by JOSHUA PHILLIPS. (Topic, Matthew) (Entered: 06/22/2018)
08/07/2018		MINUTE ORDER. Because Mr. Phillips is suing the United States and a United States agency, see generally Compl., ECF No. 1, Mr. Phillips must serve the United States and the agencies named as defendants in his complaint. Fed. R. Civ. P. 4(i)(1) and (i)(2). Serving the United States requires that a party (1) "deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office," Fed. R. Civ. P. 4(i)(1)(A)(i), (ii), and (2) "send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C." Fed. R. Civ. P. 4(i)(1)(B). Serving a United States agency requires the party to "serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency." Fed. R. Civ. P. 4(i)(2). Mr. Phillips stated that he has "now served the Summons and Complaint on all Defendants." See Pl.'s Status Report, ECF No. 11 at 1. That service appears to have involved the certified mailing of a summons to the "Executive Office for United States Attorneys," Summons, ECF No. 9 at 1, and the "Department of Justice," Summons, ECF No. 10 at 1. However, because the docket in this case does not indicate that a summons has issued as to the United States attorney or as to the Attorney General, it does not appear that the materials sent by certified mail to the Executive Office for United States Attorneys or the Department of Justice were sufficient to "serve the United States" under Rule 4. Accordingly, by no later than August 28, 2018, Mr. Phillips is directed to file a summons with the Clerk of the Court as to the United States attorney for the District of Columbia and to file another summons with the Clerk of the Court as to the Attorney General of the United States or, in the alternative, is directed to file a motion with the Court requesting that such summonses be issued by the Clerk of the Court. Upon issuance of those summonses, Mr. Phillips should re-attempt deliverance of the appropriate summons and the complaint to the United States attorney and the Attorney General in accordance with Rules 4(i)(1)(A);(B) and 4(i)(2). Mr. Phillips is directed to then file proof of service of those summonses and the complaint by no later than September 19, 2018. Signed by Judge Emmet G. Sullivan on 8/7/2018. (lcegs2) (Entered: 08/07/2018)
08/07/2018		Set/Reset Deadlines: Time to effectuate service upon party due by 8/28/2018. Proof Of Service Of Summonses and Complaint due by 9/19/2018. (mac) (Entered: 08/07/2018)
08/07/2018	<u>12</u>	REQUEST FOR SUMMONS TO ISSUE filed by JOSHUA PHILLIPS. (Attachments: # <u>1</u> Summons Summons)(Burday, Joshua) (Entered: 08/07/2018)
08/10/2018	<u>13</u>	SUMMONS (2) Issued Electronically as to U.S. Attorney and U.S. Attorney General (jf) (Entered: 08/10/2018)
08/23/2018	<u>14</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 08/16/2018. (Burday, Joshua) (Entered: 08/23/2018)
08/23/2018	<u>15</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/16/2018. Answer due for ALL FEDERAL DEFENDANTS by 9/15/2018. (Burday, Joshua) (Entered: 08/23/2018)

09/14/2018	<u>16</u>	Unopposed MOTION for Extension of Time to File by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION (Attachments: # <u>1</u> Text of Proposed Order)(Peterson, Benton) (Entered: 09/14/2018)
09/20/2018		MINUTE ORDER granting <u>16</u> defendant's motion for extension of time. Defendant shall respond to Plaintiff's complaint by no later than October 2, 2018. Signed by Judge Emmet G. Sullivan on 9/20/2018. (lcegs2) (Entered: 09/20/2018)
09/20/2018		Set/Reset Deadlines: Defendant Response To Plaintiff's Complaint due by 10/2/2018. (mac) (Entered: 09/20/2018)
10/01/2018	<u>17</u>	ANSWER to Complaint by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION.(Peterson, Benton) (Entered: 10/01/2018)
10/11/2018		MINUTE ORDER. Plaintiff brings this action pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The parties are directed to meet and confer and propose a joint scheduling order for further proceedings in this case by no later than November 12, 2018. The parties' joint proposed scheduling order shall address the following: (1) The status of plaintiff's FOIA request; (2) The anticipated number of documents responsive to plaintiff's FOIA request; (3) The anticipated date(s) for release of documents responsive to plaintiff's FOIA request; (4) Whether a motion for an Open America stay is likely in this case; (5) Whether a Vaughn index will be required in this case; (6) Whether this case would benefit from referral to a magistrate judge or the District Court Mediation Program for purposes of settlement; and (7) A proposed briefing schedule for dispositive motions, if applicable. If the parties are unable to agree on a joint recommendation, the joint proposed scheduling order shall include each party's individual recommendations. Signed by Judge Emmet G. Sullivan on 10/11/2018. (lcegs2) (Entered: 10/11/2018)
10/11/2018		Set/Reset Deadlines: Joint Scheduling Order For Further Proceedings due by 11/12/2018. (mac) (Entered: 10/11/2018)
12/04/2018		MINUTE ORDER directing the parties to show cause why they should not be held in contempt for violating this Court's Minute Order dated October 11, 2018. The parties shall file a status report explaining why they have not filed a joint scheduling order in this case by no later than December 10, 2018. Signed by Judge Emmet G. Sullivan on 12/4/2018. (lcegs2) (Entered: 12/04/2018)
12/04/2018		Set/Reset Deadlines: Parties Status Report due by 12/10/2018. (mac) (Entered: 12/04/2018)
12/04/2018	<u>18</u>	Joint STATUS REPORT <i>And Response to Court's Order</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION. (Peterson, Benton) (Entered: 12/04/2018)
12/07/2018		MINUTE ORDER. In light <u>18</u> the parties' joint status report, the parties are directed to file a further joint status report by no later than January 28, 2019. Signed by Judge Emmet G. Sullivan on 12/7/2018. (lcegs2) (Entered: 12/07/2018)
12/07/2018		Set/Reset Deadlines: Joint Status Report due by 1/28/2019. (mac) (Entered: 12/07/2018)
01/22/2019	<u>19</u>	Unopposed MOTION to Stay , MOTION for Extension of Time to <i>in Light of Lapse of Appropriations</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION (Attachments: # <u>1</u> Text of Proposed Order)(Hudak, Brian) (Entered: 01/22/2019)
01/25/2019		MINUTE ORDER denying motion to stay and granting extension to file joint status report. The parties are directed to file a joint status report with a recommendation for further proceedings by no later than February 18, 2019. Signed by Judge Emmet G. Sullivan on 1/25/2019. (lcegs2) (Entered: 01/25/2019)
01/28/2019		Set/Reset Deadlines: Joint Status Report due by 2/18/2019. (mac) (Entered: 01/28/2019)

02/19/2019	<u>20</u>	Joint STATUS REPORT <i>and Response to Order</i> by JOSHUA PHILLIPS. (Topic, Matthew) (Entered: 02/19/2019)
03/04/2019		MINUTE ORDER. In light of <u>20</u> the parties' joint status report, the parties are directed to file further joint status report by no later than March 28, 2019. Signed by Judge Emmet G. Sullivan on 3/4/2019. (lcegs2) (Entered: 03/04/2019)
03/05/2019		Set/Reset Deadlines: Joint Status Report due by 3/28/2019. (mac) (Entered: 03/05/2019)
03/15/2019	<u>21</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Derek S. Hammond on behalf of All Defendants Substituting for attorney Benton G. Peterson (Hammond, Derek) (Entered: 03/15/2019)
03/28/2019	<u>22</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION. (Hammond, Derek) (Entered: 03/28/2019)